

08/323,854; December 30, 2002

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Power of Attorney

An original Power of Attorney in favor of the undersigned, executed by the inventor, is being sent from the office of the undersigned by courier today under separate cover to the PTO. A copy of the original submission is enclosed herewith.

Priority Claim

The application has been amended to clarify the priority claim.

With respect to the previously submitted Oath, the priority claims made with respect to PCT/CA 96/00401 and PCT/CA 97/00967 should have been made under 35 U.S.C. § 120 as each of these international applications designated the United States of America.

As indicated by the amendment to the specification, PCT/CA 97/00967 claims priority from United States Patent Application Serial No. 08/763,458 filed December 11, 1996. The prescribed deadline for filing an application claiming benefit under 35 U.S.C. § 120 with respect to PCT/CA 97/00967 was June 11, 1999, and the instant application was filed on June 2, 1999.

Also, as indicated by the amendment to the specification, PCT/CA 96/00401 claimed priority from United States Patent Application Serial No. 08/487,074 filed June 7, 1995. The prescribed deadline for filing a United States application claiming benefit under 35 U.S.C. § 120 was December 8, 1997 (December 7, 1997 being a Sunday). United States Patent Application Serial No. 08/986,627 was filed as a continuation application of PCT/CA 97/00967 on December 8, 1997. The instant application was filed June 2, 1999 prior to issuance of United States Patent Application Serial No. 08/986,627 as United States Patent No. 6,352,973 on March 5, 2002.

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A corrected Oath, signed by the inventor, and deleting the foreign priority claims will be submitted in due course.

Sequence Rules

The Abstract has been amended to recite appropriate sequence identifiers at each place where a sequence is discussed.

Claim rejections – 35 U.S.C. § 112, second paragraph

Claim 49 has been amended to clarify that it is the amino acid residue that occupies position number nine of SEQ ID NO:46, that is, the serine residue, that can be replaced by a nonpolar or uncharged polar amino acid.

Double patenting

A terminal disclaimer, signed by the undersigned, is enclosed. The disclaimer is made with respect to claim 49 to 51 and 53. Claim 52, to which the disclaimer does not apply, has accordingly been rewritten in independent form.

As mentioned above, the undersigned has been authorized by the inventor as his attorney or agent to prosecute the application identified above. A copy of the authorization is attached, and the undersigned is sending to the United States Patent and Trademark Office today the original signed authorization.

Other issues

An Information Disclosure Statement, cited references, and required fee is being sent by the undersigned today by courier with delivery to the PTO expected on December 31, 2002.

DEC. 30. 2002 8:30AM

NO. 6993 P. 8

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ABN
Applicant also wishes to bring to the attention of the Examiner the existence of co-pending United States Patent Application Serial No. 09/728,484, filed December 4, 2000, which application is a continuation application of United States Patent Application Serial No. 09/044,099, filed March 19, 1998, now abandoned. The existence of United States Patent Application Serial No. 09/044,099 was brought to the attention of the Examiner in Applicant's letter of November 29, 1999, although the previous letter erroneously indicated the filing date of the application.

Applicant believes that all issues raised in the outstanding Examiner's Action have been addressed by this response, and requests, upon receipt by the Examiner of the Information Disclosure Statement and review of the materials therein, favorable consideration of the application.

Should any Patent Office Official want to telephone, the call should be made to John C. Hunt (Registration No. 36,424) at (416) 863-4344.

Yours very truly,



John C. Hunt
Registration No. 36,424

December 30, 2002
Date

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ABSTRACT - Version with markings to show changes made 09/323,854; December 30, 2002

Polypeptides which stimulate bone growth: Gly Ile Gly Lys Arg Thr Asn Glu His Thr Ala Asp
Cys Lys Ile Lys Pro Asn Thr Leu His Lys Lys Ala Ala Glu Thr Leu Met Val Leu Asp Gln Asn
Gln Pro (SEQ ID NO:1) and subsequences, particularly Arg Thr Asn Glu His Thr Ala Asp Cys
Lys (SEQ ID NO:24) and associated nucleotide sequences, methods of preparation and use,
antibodies and kits.

CLAIMS - Version with markings to show changes made

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49. (Amended) A compound having bone stimulatory activity in mammals, the compound comprising the amino acid sequence identified as SEQ ID NO:46 wherein a substitution of [a nonpolar or uncharged polar amino acid is permitted] the serine residue at position number 9 of said sequence by a nonpolar or uncharged polar amino acid is permitted provided the compound has bone stimulatory activity.
52. (Amended) [The] A compound [of claim 50, wherein the amino acid sequence of the compound] which comprises the amino acid sequence identified as SEQ ID NO:45.